

1 DANA A. SUNTAG (California State Bar #125127)  
2 SUNTAG & FEUERSTEIN  
3 A Professional Corporation  
The Kress Building  
4 20 North Sutter Street, Fourth Floor  
Stockton, California 95202  
Telephone: (209) 943-2004  
Facsimile: (209) 943-0905  
5 Dana@Suntag-Feuerstein.com

6 STEVEN WOODSIDE (California State Bar #58684)  
County Counsel  
7 BRUCE D. GOLDSTEIN (California State Bar #135970)  
Assistant County Counsel  
8 TAMBRA L. CURTIS (California State Bar # 157205)  
Deputy County Counsel  
9 OFFICE OF THE COUNTY COUNSEL  
OF SONOMA  
10 575 Administration Drive, Room 105A  
Santa Rosa, California 95403  
Telephone: (707) 565-2421  
11 Facsimile: (707) 565-2624

12  
13 Attorneys for Defendants  
COUNTY OF SONOMA and  
14 JERRY NEWMAN

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17  
18 ORALEE ANDERSON-FRANCOIS, ) **No. C08-00724 WHA**  
19 Plaintiff, )  
20 v. ) **DEFENDANTS COUNTY OF**  
21 COUNTY OF SONOMA, et al., ) **SONOMA AND JERRY**  
22 Defendants. ) **NEWMAN'S ANSWER TO**  
23 ) **UNVERIFIED COMPLAINT**  
24 ) **DEMAND FOR JURY TRIAL**  
25 )  
26 )  
27 )  
28 )

1                   Defendants County of Sonoma and Jerry Newman (collectively, the  
2 "County Defendants"), for themselves only, answering the unverified Complaint filed on  
3 January 31, 2008, admit, deny, and allege as follows:

4                   1.       The County Defendants are without knowledge or information  
5 sufficient to form a belief as to the truth of the allegations contained in paragraphs 11,  
6 12-15, 19, 20, 22, 23, 60, 61, 62, 64, and 66, and, on that ground, deny each allegation  
7 contained in those paragraphs.

8                   2.       The County Defendants admit the allegations contained in  
9 paragraphs 4, 6, 9, 10, 18, 21, 26, 27, 28, 31-35, 37-38, 42-46, and 48-56.

10                  3.       The County Defendants deny the allegations contained in  
11 paragraph 5, 16, 17, 30, 39, 63, and 65.

12                  4.       In response to paragraphs 1 and 2, the County Defendants admit  
13 this Court has subject matter jurisdiction over this case but deny they are responsible  
14 for any deprivation of rights.

15                  5.       In response to paragraph 3, the County Defendants admit that  
16 venue is proper but they deny that each of the allegations contained in the Complaint  
17 occurred.

18                  6.       In response to paragraph 7, the County Defendants admit that the  
19 County promulgated and administered policies and procedures that apply to its  
20 employees; the County Defendants deny each remaining allegation contained in the  
21 paragraph.

22                  7.       In response to paragraph 8, the County Defendants admit that at all  
23 relevant times Jerry Newman was a social worker employed by the County.

24                  8.       In response to paragraph 24, the County Defendants admit that  
25 Lucas left the family home and began to live at the Panoskis; the County Defendants  
26 are without knowledge or information sufficient to form a belief as to the truth of the  
27 allegation that both of the boys' grades in school began a downward spiral after they left  
28

1 Plaintiff's home; the County Defendants deny each remaining allegation in the  
2 paragraph.

3           9. In response to paragraph 25, the County Defendants admit that  
4 Plaintiff called the police and filed a missing persons report and that the police  
5 responded to the Panoski home and did not remove the child; the County Defendants  
6 deny each remaining allegation contained in the paragraph.

7           10. In response to paragraph 29, the County Defendants admit that  
8 Lucas claimed he had previously told school teachers about Plaintiff abusing him and  
9 that Mark stated he had told a counselor and a school teacher about the alleged  
10 beatings in his mother's home and that all school teachers and counselors/therapists in  
11 California are mandated reporters; the County Defendants are without knowledge or  
12 information sufficient to form a belief as to the truth of the allegation that Plaintiff had  
13 maintained a single family physician for almost two decades and that this mandated  
14 reporter never saw anything justifying a response of abuse to CPS; the County  
15 Defendants deny each remaining allegation contained in the paragraph.

16           11. In response to paragraph 36, the County Defendants admit that  
17 Plaintiff denied using a belt or extension cord and that she complained of racial  
18 overtones in prior abuse investigations, that there had been eight prior referrals  
19 regarding abuse received by the County licensing department and seven prior referrals  
20 for abuse made to CPS, and that social worker Newman knew about the existence and  
21 disposition of these referrals at the time of his December 21, 2005, interview of Mark,  
22 Lucas, and Plaintiff; the County Defendants deny each remaining allegation contained  
23 in the paragraph.

24           12. In response to paragraph 40, the County Defendants admit that  
25 there was a meeting that day, that Newman and Phillips went to Plaintiff's home to  
26 discuss the allegations with her, that Plaintiff stated that both Mark and Lucas were  
27 failing in school and Lucas was about to get kicked out of school, that Plaintiff  
28

1 volunteered information about the backgrounds of the boys and other children she had  
2 raised, and that neither E.A. nor F.A. were removed that day; the County Defendants  
3 deny each remaining allegation contained in the paragraph.

4           13. In response to paragraph 41, the County defendants admit the  
5 allegations except they note that the "chance encounter" in the supermarket was on  
6 January 3, 2006, not January 3, 2005.

7                   14. In response to paragraph 47, the County Defendants deny the  
8 allegation that "Newman accused F.A. of lying"; the County Defendants admit the  
9 remaining allegations contained in the paragraph.

10                   15. In response to paragraph 57, the County Defendants deny that  
11 they jointly agreed that they would remove E.A. and F.A. (or either of them) from their  
12 mother's home or Mark and Lucas (or either of them).

13                   16. In response to paragraph 58, the County Defendants admit on  
14 information and belief that E.A. and F.A. had been residing with Plaintiff during the six  
15 week investigation and that, on information and belief, there was no warrant for the  
16 removal; the County Defendants are without knowledge or information sufficient to form  
17 a belief as to the truth of the allegation that the removal was without consent and, on  
18 that ground, deny the allegation; the County Defendants deny each remaining  
19 allegation contained in the paragraph.

20                   17. In response to paragraph 59, the County Defendants are without  
21 knowledge or information sufficient to form a belief as to the truth of the allegation that  
22 Lucas has completed his jail sentence; the County Defendants deny F.A. told Newman  
23 he did not understand why he was taken from his mother; the County Defendants admit  
24 the remaining allegations contained in the paragraph.

## FIRST AFFIRMATIVE DEFENSE

26 Each claim for relief fails to state a claim on which relief can be granted.

1                   SECOND AFFIRMATIVE DEFENSE

2                 Plaintiff's claims are barred, in whole or in part, to the extent they seek to  
3 impose liability based on the doctrine of respondeat superior.

4                   THIRD AFFIRMATIVE DEFENSE

5                 Plaintiff's claims, or some of them, are barred by the doctrine of absolute  
6 immunity.

7                   FOURTH AFFIRMATIVE DEFENSE

8                 Plaintiff's claims, or some of them, are barred by the doctrine of qualified  
9 immunity.

10                  FIFTH AFFIRMATIVE DEFENSE

11                 Plaintiff was careless and negligent in connection with the matters alleged  
12 in the Complaint, and such carelessness and negligence proximately caused and  
13 contributed to the loss and/or damage. Therefore, any damages awarded should be  
14 reduced in proportion to fault.

15                  SIXTH AFFIRMATIVE DEFENSE

16                 The acts and/or omissions of third person(s) and/or entity(ies), negligent  
17 or otherwise, proximately caused or contributed to the loss and/or damage, if any,  
18 Plaintiff sustained or may sustain. Therefore, any liability should be reduced in  
19 proportion to the fault of third person(s) and/or entity(ies), including without limitation  
20 any non-economic losses or injuries caused by such third person(s) and/or entity(ies).

22                  SEVENTH AFFIRMATIVE DEFENSE

23                 Plaintiff is barred from recovery to the extent she failed to mitigate her  
24 alleged damages.

25                  EIGHTH AFFIRMATIVE DEFENSE

26                 Plaintiff's claims are barred because she failed to exhaust administrative  
27 remedies and/or failed to satisfy a condition precedent to a court action.

1                   NINTH AFFIRMATIVE DEFENSE

2                 Plaintiff assumed the risk of loss or damage of the nature she claims to  
3 have sustained.

4                   TENTH AFFIRMATIVE DEFENSE

5                 Plaintiffs is barred from recovery based on the doctrine of waiver.

6                   ELEVENTH AFFIRMATIVE DEFENSE

7                 Plaintiff is barred from recovery based on the doctrine of estoppel.

8                   TWELFTH AFFIRMATIVE DEFENSE

9                 All of the County Defendants' actions towards Plaintiff were based on a  
10 good faith exercise of responsibility conferred on them.

11                  THIRTEENTH AFFIRMATIVE DEFENSE

12                 Plaintiff's claims are barred by the doctrine of managerial immunity.

13                  FOURTEENTH AFFIRMATIVE DEFENSE

14                 Plaintiff's claims are barred by privilege.

15                  FIFTEENTH AFFIRMATIVE DEFENSE

16                 The County Defendants acted in good faith and with reasonable and  
17 probable cause in connection with the matters alleged in Plaintiff's Complaint and with  
18 the honest and reasonable belief that such actions were reasonable and necessary.

19                  SIXTEENTH AFFIRMATIVE DEFENSE

20                 All of the County Defendants' actions towards Plaintiff were conducted  
21 with due care in the execution or enforcement of laws.

22                  SEVENTEENTH AFFIRMATIVE DEFENSE

23                 Plaintiff's claims are barred by the doctrine of consent.

24                  EIGHTEENTH AFFIRMATIVE DEFENSE

25                 The County Defendants acted in good faith with probable cause and with  
26 the honest and reasonable belief that their actions were reasonable and necessary and

1 did not know that any actions taken by them would violate Plaintiff's constitutional  
2 rights.

## NINETEENTH AFFIRMATIVE DEFENSE

4 Plaintiff's claims are barred, in whole or in part, based on the doctrine of  
5 unclean hands.

## TWENTIETH AFFIRMATIVE DEFENSE

7 Plaintiff's claims are barred, in whole or in part, based on the doctrines of  
8 collateral estoppel and/or res judicata.

## **TWENTY-FIRST AFFIRMATIVE DEFENSE**

Plaintiff was given, or had available to her, available due process for each of the alleged deprivations of her constitutional rights.

## TWENTY-SECOND AFFIRMATIVE DEFENSE

At all relevant times, the County Defendants acted reasonably in connection with the matters alleged in the Complaint.

## TWENTY-THIRD AFFIRMATIVE DEFENSE

The County Defendants neither knew nor had reason to know that their acts and/or omissions would violate any clearly established federal right of Plaintiff's.

#### **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by the doctrine of qualified immunity based on the judicial or quasi-judicial functions of the County Defendants, including without limitation the fact that relevant conduct was judicially directed, approved, and/or ratified.

## TWENTY-FIFTH AFFIRMATIVE DEFENSE

24 The County Defendants, or some of them, are immune from liability, in  
25 whole or in part, under Government Code Sections 820.2 and 821.6.

## TWENTY-SIXTH AFFIRMATIVE DEFENSE

27 The County Defendants are not liable for any injuries caused by the act or  
28 omission of another person pursuant to Government Code Section 820.8.

1                   TWENTY-SEVENTH AFFIRMATIVE DEFENSE

2                   Pursuant to Government Code Sections 818.8 and 822.2, the County  
3 Defendants, or some of them, are immune from liability for any injuries or damages  
4 caused by any negligent or intentional misrepresentations.

5                   TWENTY-EIGHTH AFFIRMATIVE DEFENSE

6                   The County is not liable for Plaintiff's claims, or some of them, pursuant to  
7 California Government Code Section 815.2(b).

8                   Wherefore, the County Defendants pray for judgment as follows:

- 9                   1.       That Plaintiff take nothing by her Complaint, and that her Complaint  
10 be dismissed with prejudice;  
11                  2.       For attorneys' fees incurred, as allowed by law;  
12                  3.       For costs incurred; and  
13                  4.       For such other and further relief as the Court deems proper.

14                  Respectfully submitted,

15                  Dated: May 14, 2008

SUNTAG & FEUERSTEIN  
A Professional Corporation

17                  By:     */s/ Dana A. Suntag*

18                  DANA A. SUNTAG  
19                  Attorneys for Defendants  
20                  COUNTY OF SONOMA and JERRY  
21                  NEWMAN

**DEMAND FOR JURY TRIAL**

Defendants County of Sonoma and Jerry Newman request a trial by jury of all issues that may be tried by a jury.

Dated: May 14, 2008

**SUNTAG & FEUERSTEIN**  
A Professional Corporation

By: /s/ Dana A. Suntag  
**DANA A. SUNTAG**  
Attorneys for Defendants  
COUNTY OF SONOMA and JERRY  
NEWMAN